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EXDIS DISTRIBUTE AS NODIS; FOR ATHERTON/SAUNDERS FROM NEA

E.O. 11652: GDS

TAGS: UN, MILL, US, IS

SUBJECT: NON-RENEWAL OF UNEF

REF: A) JERUSALEM 2108, B) JERUSALEM 2119 (USDEL 38)

1. SPECULATION ABOUT NON-RENEWAL OF UNEF HAS REACHED
POINT WHERE WE THOUGHT A REVIEW OF THE BIDDING WITH SOME
THOUGHTS FROM HERE COULD BE USEFUL FOR YOU IN CONTEXT CUR-
RENT TRIP. WHAT FOLLOWS IS NOT FULLY CLEARED LEGAL BRIEF
BUT OUR BEST WEEKEND EFFORT.

2. BRIEFLY, RECENT BACKGROUND IS THIS: IN EARLY MARCH
INTERVIEW SADAT RESTATED HIS VIEW (FIRST HEARD SOON AFTER
1975 INITIALING OF THE AGREEMENT) THAT BOTH SINAI II DIS-
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ENGAGEMENT AGREEMENT AND UNEF MANDATE EXPIRE IN OCTOBER.
IN LATE JULY GAMASY ASKED SIILASVUO ABOUT CONSEQUENCES IF
UNEF MANDATE NOT EXTENDED. SIILASVUO REPLIED (REFTEL A)
THAT AUGMENTED UNTSO COULD TAKE OVER UNEF FUNCTIONS;
SIILASVUO HAS ALSO GIVEN GUYER/URQUHART HIS VIEWS ON PLAN-
NING FOR SUCH A CONTINGENCY. TOPIC OF UNEF RENEWAL ALSO
CAME UP DURING ROY'S MEETING WITH BEGIN AUGUST 2 (REFTEL B).

BEGIN TOOK POSITION THAT SINAI II IS TO REMAIN IN FORCE UNTIL SUPERSEDED BY ANOTHER AGREEMENT, BUT THAT UNEF RENEWAL MAY BE ANOTHER MATTER.

3. IT STRIKES US THAT UNDER ARTICLE V OF AGREEMENT, EGYPT AND ISRAEL UNDERTOOK TO RENEW AGREEMENT ANNUALLY AS LONG AS AGREEMENT ITSELF CONTINUES. WE ARE AWARE OF "THREE YEAR LIMIT" CLAIM BY SADAT BUT USG APPARENTLY HAS NEVER ACQUIESCED IN IT AND WE FIND NO JUSTIFICATION FOR IT EITHER IN SINAI II ITSELF OR IN SADAT SIDE LETTER OF SEPTEMBER 1, 1975. IN THAT LETTER, YOU MAY RECALL, SADAT SET FORTH EGYPT'S POSITION AS A.) THE AGREEMENT REMAINS IN FORCE UNTIL SUPERSEDED B.) EGYPT WILL MAKE EVERY EFFORT TO EXTEND UNEF ANNUALLY FOR DURATION OF AGREEMENT AND C.) IF THE SECURITY COUNCIL BY ACTION OF A THIRD STATE (I.E., A SOVIET VETO) FAILS TO RENEW UNEF, EGYPT WOULD WORK WITH THE U.S. TO HAVE UNGA BRING ABOUT AT LEAST TWO ANNUAL RENEWALS AFTER THE FIRST ANNUAL MANDATE (COMMENT: THIS IS ONLY LANGUAGE THAT COMES CLOSE TO A THREE YEAR LIMIT; IT DOES NOT, IN OUR OPINION, WARRANT CONCLUSION THAT UNEF'S THREE YEARS ARE UP IN OCTOBER.) AND D.) IF UNGA ACTION NOT POSSIBLE, EGYPT WOULD REQUEST AN AUGMENTED UNTSO TO TAKE OVER FROM UNEF. (COMMENT: THIS UNTSO SUBSTITUTION COMMITMENT APPEARS TO APPLY ONLY AS LAST RESORT IN EVENT OF SECURITY COUNCIL FAILURE TO RENEW AS RESULT OF THIRD STATE ACTION AND ONLY IF SUCH ACTION BLOCKED ONE OF FIRST THREE
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ANNUAL RENEWALS).

4. ROSENNE'S COMMENTS (REFTEL B) ADD UP TO SIMILAR INTERPRETATION. ROSENNE MAKES ADDITIONAL POINT THAT UNLESS BOTH EGYPT AND ISRAEL AGREE TO WITHDRAW UNEF, AGREEMENT TO ITS PRESENCE SHOULD REMAIN BINDING ON ALL SIDES. PRESUMABLY THIS ALSO IS OUR VIEW AND WAS DELIBERATELY DONE IN ORDER TO AVOID REPETITION OF 1967 UNILATERAL WITHDRAWAL OF UNEF, FOR AS BRITISH FOREIGN SECRETARY POINTED OUT AT THAT TIME, "A PEACEKEEPING FORCE THAT CAN BE WITHDRAWN IN THE HOUR OF TENSION IS A MOCKERY". (COMMENT: ROSENNE ALSO REFERS IN REFTEL B TO US-ISRAEL "AGREEMENT" ON THIS. WE KNOW OF NO SUCH AGREEMENT).

5. IF FOREGOING IS ACCURATE, LETTER AND SPIRIT OF AGREEMENT WOULD SUPPORT INTERPRETATION THAT UNILATERAL DECISION TO WITHDRAW UNEF NOW, IN OCTOBER, OR AT ANY TIME DURING LIFE OF SINAI II WOULD AMOUNT TO WRONGFUL ABROGATION. ISRAELIS UNDOUBTEDLY WOULD TRY TO MAKE MUCH OF EGYPT'S "VIOLATION" OF SINAI II AND HARD-LINERS IN ISRAEL WOULD POUNCE WITH GLEE ON "PROOF" THAT ARABS CANNOT BE TRUSTED TO ADHERE TO INTERNATIONAL AGREEMENTS.

6. BUT WHATEVER THE LEGALITIES MAY BE WE RECOGNIZE THAT EGYPT, AS A SOVERIGN STATE, CANNOT IN FACT BE PREVENTED FROM DECLARING ITS UNWILLINGNESS TO ACCEPT FURTHER UNEF ROLE. POINT TO BE MADE IN THIS REGARD, WE BELIEVE, IS THAT SUCH A STEP COULD ALL TOO EASILY BEGIN PROCESS OF

UNRAVELLING SINAI II THAT WOULD BE DIFFICULT IF NOT IMPOSSIBLE TO HALT.

7. IDEA THAT UNTSO COULD EASILY MOVE IN TO TAKE OVER UNEF RESPONSIBILITIES, IF IT GETS AROUND, MIGHT ENCOURAGE SADAT TO TAKE WHAT MAY APPEAR TO BE SYMBOLIC STEP IN FALSE CONFIDENCE THAT UN OR U.S. WILL STEP IN TO PREVENT ANY REAL
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DETERIORATION OF SITUATION. REALITY, WE EXPECT, WOULD BE OTHERWISE. WHETHER A NEW RENEWAL FORMULA FOR UNEF WERE PROPOSED (E.G., DROPPING BACK TO PRE-SINAI SIX OR THREE MONTHS RENEWALS) OR UNTSO OFFERED AS A SUBSTITUTE, SINAI II EITHER WOULD HAVE TO BE AMENDED OR PARTIES WOULD HAVE TO LOOK OTHER WAY AS ONE OF ITS FOUNDATION STONES -- ARTICLE V -- WAS PULLED OUT.

8. MOREOVER, NUMBER OF ASSUMPTIONS ABOUT UNTSO SUBSTITUTION MADE BY SIILASVUO CANNOT BE TAKEN FOR GRANTED. UNTSO IS SMALL, UNARMED ORGANIZATION; CONGRESS COULD BE COUNTED ON TO QUESTION WHETHER IT COULD PROVIDE ADEQUATE SECURITY FOR SINAI II FIELD MISSION. INDEED, CONGRESS' 1975 APPROVAL WAS ACHIEVED LARGELY AS A RESULT OF OUR ASSURANCES THAT BOTH EGYPT AND ISRAEL AGREED TO ENTIRE EARLY WARNING SYSTEM ARRANGEMENTS--INCLUDING UNEF. UN SECRETARIAT TOLD US IN 1975 THAT WALDHEIM WOULD NEVER AGREE TO UNTSO REPLACING UNEF WITHOUT EXPLICIT AGREEMENT OF SECURITY COUNCIL. SUCH A PROCESS MIGHT OFFER SOVIETS AN OPPORTUNITY TO QUESTION VALIDITY OF PRESENT UNTSO MANDATE. IN SUM, POLITICAL PROBLEMS ON HILL AND AT UN WOULD BE CONSIDERABLE.

9. SHOULD YOU FEEL OCCASION APPROPRIATE, VISIT OF SECRETARY MAY BE TIME TO LET PARTIES KNOW THAT U.S. DOES NOT REGARD UNILATERAL DECISION TO WITHDRAW UNEF AS WARRANTED UNDER SINAI II AND THAT, IN ANY EVENT, SUCH A STEP WOULD DESTROY DELICATELY CONSTRUCTED, HIGHLY EFFECTIVE PEACEKEEPING MECHANISM WITH POTENTIALLY GRAVE CONSEQUENCES TO DISENGAGEMENT AGREEMENT ITSELF.

10. WHETHER ISSUE IS RAISED AT THIS TIME WITH EGYPTIANS OR NOT, WE FEEL THAT WE SHOULD TRY TO TURN OFF TALK ABOUT
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FEASIBILITY OF UNTSO SUBSTITUTION IN ORDER TO AVOID ENCOURAGING SADAT TO BELIEVE THAT DRAMAIC DECISION CAN BE PULLED OFF WITHOUT NEGATIVE CONSEQUENCES. IF PUBLIC STATEMENTS AND CONTINGENCY PLANNING GO ON MUCH LONGER, ISSUE MAY ATTAIN PROMINENT LIFE OF ITS OWN THAT WILL ALMOST GUARANTEE A CRISIS AS WE APPROACH OCTOBER.

11. USUN HAS ASKED US TO EMPHASIZE TO YOU THE NEED TO BE EXTREMELY CAREFUL IN ANY CONVERSATIONS WITH EGYPTIANS OR OTHERS, NOT TO REVEAL THAT WE HAVE BEEN MADE PRIVY TO INFORMATION FROM UN SERVICES. CHRISTOPHER

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